

Appl. No. : 09/847,759
Filed : May 2, 2001

502
C
C
Cylindrical beverage containers can be placed onto the rear portion of the support assembly when the third and fourth apertures are connected to a shelf disposed above the support assembly by fasteners.

59. (New) The shelf according to Claim 58, wherein the fasteners are threaded fasteners.

60. (New) The shelf according to Claim 58 additionally comprising a horizontally extending plate connecting the third and fourth support portions, the apertures being defined in the plate.

61. (New) The shelf according to Claim 58 additionally comprising a horizontally extending plate connecting the first and second support portions, the apertures being defined in the plate.

62. (New) The shelf according to Claim 1 additionally comprising members on the front and other rod-like member for fixing the framework under another structure.

COMMENTS

Claims 1-20, 22-24, 26-37, 39, and 49-62 are now pending in the present application, Claims 21, 25, 38, and 40-48 having been canceled without prejudice or disclaimer, Claims 1, 6-8, 14, 20, 22, 23, 30, and 36 having been amended, and new Claims 49-62 having been added.

The claims set forth above include bracketing and underlining showing changes made to the claims relative to the issued patent. For the Examiner's convenience, Applicant has attached a separate page titled "VERSION WITH MARKINGS SHOWING CHANGES MADE" which includes the amended claims with brackets and underlining showing changes made to the claims relative to the preliminary amendment filed with the present re-issue application.

Applicant would initially like to thank Examiner Gibson for the courteous interview extended to Applicant's counsel, Michael Guiliana, on May 3, 2002. Applicant has amended Claims 1 and 14 along the lines discussed during the interview, which the Examiner agreed would overcome the outstanding rejections thereof. On the basis of the interview and in response to the Office Action mailed November 27, 2001, Applicant respectfully requests the Examiner to

Appl. No. : 09/847,759
Filed : May 2, 2001

reconsider the above-captioned application in view of the foregoing amendments and the following comments.

All Pending Claims Now Fully Comply With 35 U.S.C. § 112

Claims 1-4 stand rejected under 35 U.S.C. § 112, second paragraph, the Examiner maintaining that the language therein is indefinite as filed. In response, and in accordance with the interview of May 3, 2002, Applicant has amended Claim 1 to clarify the term "on or under."

In particular, Applicant has deleted the term, "on or under one of the shelves," and replaced this phrase with "configured to rest on and engaged one of the shelves which is horizontal or inclined," and "configured to support additional shelving above the first plane." All pending claims now fully comply with the requirements of 35 U.S.C. § 112, second paragraph.

Claims 45-48 Fully Comply With U.S.C. § 112 First Paragraph

Claims 45-48 stand rejected under 35 U.S.C. § 112, first paragraph, as containing subject matter not described in the specification so as to convey to one skilled in the art that the inventor had possession of the claimed invention. Applicant respectfully traverses this rejection.

In particular, at page 2 of the Outstanding Official Action, the Examiner has indicated that there is no support for the phrase "shelf inclined relative to a horizontal plane," as recited in Claim 45. Applicant respectfully submits that this language is fully supported by the specification of U.S. Patent No. 6,044,93. In particular, Applicant wishes to direct the Examiner to Column 4, lines 37-50 where it is disclosed that "[u]se of the described shelf structure on a horizontal or inclined shelf of a visi-cooler where walk-in cooler has already been suggested...One of the cooler's shelf or other supporting structures inclined, but described shelf structure can be placed directly thereon to utilize its incline." Applicant submits that one of ordinary skill in the art would recognize that the use of the term "inclined" in specification of the present reissue application is simply and clearly another way of saying "inclined relative to a horizontal plane." Thus, Claim 45 fully complies with U.S.C. § 112, first paragraph.

In any event, Claims 45-48 have been cancelled without prejudice to disclaimer. Thus, the present rejection is moot.

Appl. No. : 09/847,759
Filed : May 2, 2001

Amended Claims 6-8 Are In Condition For Allowance

The Examiner indicated that Claim 6-8 would be allowable if amended to address the Section 112, second paragraph rejection and if rewritten into independent form. The amendments to Claim 6-8 overcome the rejection and rewrites these claims to stand on their own. In particular, in incorporating the subject matter of Claim 1 into Claims 6-8, Applicant has deleted the phrase "on or under one of the shelves." Thus, Applicant submits that the outstanding rejection of Claim 1 under 35 U.S.C. § 112, second paragraph, does not apply to amended Claims 6-8. Thus, Claims 6-8 are now in condition for allowance.

Titus Does Not Anticipate Claims 1-4, 14-17, 20, 25, 26, 29, 30-32, 36, 38, 39, 40, 41 and 43.

Claims 1-4, 14-17, 20, 25, 26, 29, 30-32, 36, 38, 39, 40, 41, and 43 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Titus. Applicant respectfully traverses this rejection.

With respect to Claims 1 and 14, Applicant has amended these claims in accordance with the agreement reached during the interview of May 3, 2002. Thus, the outstanding rejection of Claims 1 and 14 is moot. Additionally, Applicant submits that Claims 2-4 and 15-17, are also allowable, not only because they depend from Claims 1 and 14, but also on their own merit.

With respect to the remaining rejections, Applicant has set forth below additional comments:

Titus teaches the storage and dispensing bin, which is configured to hang within a refrigerator from a shelf disposed therein. For example, as shown in Figure 3 of Titus, a crossbar 17h is configured to engage members 30 and 31 at the rear of the shelf within the refrigerator 10. Additionally, a bar 33 is configured to engage a support 36 disposed at the forward edge of the shelf within the refrigerator 10. As shown in Figure 2, a can 18 can be inserted into the front of the bin 13 on an upper portion thereof and then be removed from the front of the bin at the lower portion thereof. The storage and dispensing bin of Titus is not directed to the type of shelf which can be loaded from the rear. Rather, the dispensing bin taught by Titus is configured solely for a retail refrigerator which can be accessed only from a front door.

In contrast, Claim 20 now recites "a rack comprising...a spacing defined between the upper ends of the second pair of support legs and the rearward portion of the support assembly sized so as to allow beverage containers to be inserted between a rear portion of the shelf and the rearward portion of the support assembly."

Appl. No. : 09/847,759
Filed : May 2, 2001

Similarly, Claim 30 now recites “a shelving system comprising...a spacing defined between the upper ends of the second pair of support legs and the rearward portion of the support assembly sized so as to allow beverage containers to be inserted between the rear portion of the shelf and the rearward portion of the support assembly.”

Finally, Claim 36 now recites “a rack comprising...means defining a spacing between the upper ends of the second pair of support legs and the rearward portion of the support assembly sized so as to allow beverage containers to be inserted between the rear portion of the shelf and the rearward portion of the support assembly.”

Applicant therefore submits that amended Claims 20, 30, and 36 clearly and non-obviously define over the Titus reference.

Additionally, Applicant submits that the remaining rejections of Claims 21-29, 31-35, and 39 are moot, not only because these claims depend from Claims 20, 30, and 36, respectively, but also because these claims define over the prior art on their own merit.

Titus Does Not Make Obvious Claims 24, 27, 28, 33, 34, 35, 37, 42, and 44 - 48

Claims 24, 27, 28, 33, 34, 35, 37, 42, and 44 - 48 stand rejected under 35 U.S.C. § 103(a) as being obvious over Titus. Applicant respectfully traverses this rejection. However, as noted above, Claims 20, 30, and 36 clearly define over the Titus reference. Thus, dependent claims 24, 27, 28, 33, 34, 35, and 37 also define over the prior art, not only because they depend from claim 20, 30 or 36, but also on their own merit. Additionally, the present rejection of Claims 42 and 44 - 48 is also moot because these claims have been cancelled.

The Applied Combination of Titus/Coretti/Arnone Does Not Make Obvious Claims 9-12 and 21-23

Claims 9-12 and 21-23 stand rejected under 35 U.S.C. § 103(a) as being obvious over Titus in view of Coretti or Arnone. Applicant respectfully traverses this rejection.

However, as noted above, Claims 1 and 20 clearly define over the Titus reference. Thus, Claims 9-12 and 21-23 also define over the prior art not only because they depend from Claims 1 or 10, but also on their own merit.

Claims 49-62 Are In Condition For Examination On Their Merits

New Claims 49 – 62 are fully supported by the specification as originally filed. No new matter has been added by way of the addition of these claims.

Appl. No. : 09/847,759
Filed : May 2, 2001

CONCLUSION

For the foregoing reasons, it is respectfully submitted that the rejections set forth in the outstanding Office Action are inapplicable to the present claims. Accordingly, early issuance of a Notice of Allowance is most earnestly solicited.

The undersigned has made a good faith effort to respond to all of the rejections in the case and to place the claims in condition for immediate allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is respectfully requested to call Applicant's attorney in order to resolve such issue promptly.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: May 28, 2002

By: 

Michael A. Guiliana
Registration No. 42,611
Attorney of Record
620 Newport Center Drive
Sixteenth Floor
Newport Beach, CA 92660
(949) 760-0404

VERSION WITH MARKINGS SHOWING CHANGES MADE

IN THE CLAIMS:

Claims 1, 6-8, 14, 20, 22, 23, 30, and 36 have been amended as follows:

1. (Amended) In one of a cooler, visi-cooler, walk-in cooler and glass-door cooler having fixed or adjustable shelves, the improvement comprising:
 - a shelf structure[on or under one of the shelves, wherein the shelf structure comprises] configured to rest on and engage one of the shelves which is horizontal or inclined, the shelf structure comprising:
 - a front rod-like member (10a) and at least one other rod-like member (10b, 10c) rearwardly spaced from the front rod-like member (10a) and, together with the front rod-like member (10a), defining a first plane (16) and configured to support additional shelving above the first plane;
 - a framework (22b) defining a second plane; and
 - at least one support (22a) connecting at least the front rod-like member (10a) and the framework (22b),
 - wherein at least a portion of the framework (22b) extends at least forward of a projection of the front rod-like member (10a) thereon with a stop (34) in a direction from the second plane with at least a component toward the first plane (16).
2. The shelf structure according to claim 1, and further comprising at least one member connecting the front and other rod-like members.
3. The shelf structure according to claim 1, wherein the at least one support comprises legs extending from opposite ends of the front and other rod-like members.
4. The shelf structure according to claim 2, wherein the at least one support comprises legs extending from opposite ends of the front and other rod-like members.
5. A shelf structure comprising:
 - a front rod-like member (10a) and at least one other rod-like member (10b, 10c) rearwardly spaced from the front rod-like member (10a) and, together with the front rod-like member (10a), defining a first plane (16);
 - a framework (22b) defining a second plane; and

Appl. No. : 09/847,759
Filed : May 2, 2001

at least one support (22a) connecting at least the front rod-like member (10a) and the framework (22b),

wherein at least a portion of the framework (22b) extends at least forward of a projection of the front rod-like member (10a) thereon with a stop (34) in a direction from the second plane with at least a component toward the first plane (16), and

wherein the framework comprises further rod-like members extending from one end at the stop to an opposite end that is rearward of a rearward most one of the at least one other rod-like member.

6. (Amended) In one of a cooler, visi-cooler, walk-in cooler and glass-door cooler having fixed or adjustable shelves, the improvement comprising:

a shelf structure comprising:

a front rod-like member (10a) and at least one other rod-like member (10b, 10c) rearwardly spaced from the front rod-like member (10a) and, together with the front rod-like member (10a), defining a first plane (16);

a framework (22b) defining a second plane;

at least one support (22a) connecting at least the front rod-like member (10a) and the framework (22b), and

at least one member connecting the front and other rod-like members

wherein at least a portion of the framework (22b) extends at least forward of a projection of the front rod-like member (10a) thereon with a stop (34) in a direction from the second plane with at least a component toward the first plane (16)[The shelf structure according to claim 2], and wherein the framework comprises further rod-like members extending from one end at the stop to an opposite end that is rearward of a rearward most one of the at least one other rod-like member.

7. (Amended) In one of a cooler, visi-cooler, walk-in cooler and glass-door cooler having fixed or adjustable shelves, the improvement comprising:

a shelf structure comprising:

Appl. No. : 09/847,759
Filed : May 2, 2001

a front rod-like member (10a) and at least one other rod-like member (10b, 10c) rearwardly spaced from the front rod-like member (10a) and, together with the front rod-like member (10a), defining a first plane (16);

a framework (22b) defining a second plane;

at least one support (22a) connecting at least the front rod-like member (10a) and the framework (22b), and

wherein at least a portion of the framework (22b) extends at least forward of a projection of the front rod-like member (10a) thereon with a stop (34) in a direction from the second plane with at least a component toward the first plane (16), wherein the at least one support comprises legs extending from opposite ends of the front and other rod-like members[The shelf structure according to claim 3], and wherein the framework comprises further rod-like members extending from one end at the stop to an opposite end that is rearward of a rearward most one of the at least one other rod-like member.

8. (Amended) In one of a cooler, visi-cooler, walk-in cooler and glass-door cooler having fixed or adjustable shelves, the improvement comprising:

a shelf structure comprising:

a front rod-like member (10a) and at least one other rod-like member (10b, 10c) rearwardly spaced from the front rod-like member (10a) and, together with the front rod-like member (10a), defining a first plane (16);

a framework (22b) defining a second plane;

at least one support (22a) connecting at least the front rod-like member (10a) and the framework (22b), and

at least one member connecting the front and other rod-like members

wherein at least a portion of the framework (22b) extends at least forward of a projection of the front rod-like member (10a) thereon with a stop (34) in a direction from the second plane with at least a component toward the first plane (16)[The shelf structure according to claim 4], and wherein the framework comprises further rod-like members extending from one end at the stop to an

Appl. No. : 09/847,759
Filed : May 2, 2001

opposite end that is rearward of a rearward most one of the at least one other rod-like member.

9. The shelf structure according to claim 1, and further comprising a front panel at a front side of the stop, whereby to carry indicia corresponding to items on the framework.

10. The shelf structure according to claim 2, and further comprising a front panel at a front side of the stop, whereby to carry indicia corresponding to items on the framework.

11. The shelf structure according to claim 3, and further comprising a front panel at a front side of the stop, whereby to carry indicia corresponding to items on the framework.

12. The shelf structure according to claim 4, and further comprising a front panel at a front side of the stop, whereby to carry indicia corresponding to items on the framework.

13. The shelf structure according to claim 5, and further comprising a front panel at a front side of the stop, whereby to carry indicia corresponding to items on the framework.

14. (Amended) A shelf structure configured to rest on and engage a shelf structure which is horizontal or inclined, the shelf structure, comprising:

a front rod-like member (10a) and at least one other rod-like member (10b, 10c) rearwardly spaced from the front rod-like member (10a) and, together with the front rod-like member (10a), defining a first plane (16) and configured to support additional shelving above the first plane;

a framework (22b) defining a second plane; and

at least one support (22a) connecting at least the front rod-like member (10a) and the framework (22b),

wherein at least a portion of the framework (22b) extends at least forward of a projection of the front rod-like member (10a) thereon with a stop (34) in a direction from the second plane with at least a component toward the first plane (16), and

further comprising members on the front and other rod-like members for fixing the framework under another structure.

15. The shelf structure according to claim 2, and further comprising members on the front and other rod-like members for fixing the framework under another structure.

Appl. No. : 09/847,759
Filed : May 2, 2001

16. The shelf structure according to claim 3, and further comprising members on the front and other rod-like members for fixing the framework under another structure.

17. The shelf structure according to claim 4, and further comprising members on the front and other rod-like members for fixing the framework under another structure.

18. The shelf structure according to claim 5, and further comprising members on the front and other rod-like members for fixing the framework under another structure.

19. The shelf structure according to claim 9, and further comprising members on the front and other rod-like members for fixing the framework under another structure.

20. (Amended) A rack comprising:

a support assembly having a forward portion and a rearward portion and being configured to support a plurality of beverage containers;

a first pair of support legs having lower ends connected to the forward portion;
and

a second pair of support legs having lower ends connected to the rearward portion, each of the first and second pairs of support legs having upper ends configured to hang the rack from a shelf disposed above the rack;

a spacing defined between the upper ends of the of the second pair of support legs and the rearward portion of the support assembly sized so as to allow beverage containers to be inserted between a rear portion of the shelf and the rearward portion of the support assembly;

a stop disposed at the forward portion of the support assembly, the stop including a panel configured to support a label;

wherein the first and second pairs of support legs are sized such that the forward portion hangs lower than the rearward portion when the rack is hanging, by the upper ends of the first and second pairs of the support legs, from a horizontal shelf.

21. (Canceled)

22. (Amended) The rack according to Claim [21]20, wherein the panel [structure] forms a stop.

Appl. No. : 09/847,759
Filed : May 2, 2001

23. (Amended) The rack according to Claim 22, wherein the panel [structure] includes at least one substantially vertical surface.

24. The rack according to Claim 20 additionally comprising threaded fasteners connecting the upper ends of the first and second pairs of support legs to the shelf.

25. (Canceled)

26. The rack according to Claim 25, wherein the stop is spaced forwardly from the first pair of support legs.

27. The rack according to Claim 20, wherein the first and second pairs of support legs are sized such that the rack can only receive articles having at least one dimension less than about 2.5 inches.

28. The rack according to Claim 20, wherein the support assembly is configured to support a plurality of parallel files of beverage containers extending between the rearward portion and the forward portion.

29. The rack according to Claim 20, wherein the support assembly comprises a wire frame configured to allow cylindrical beverage containers to roll along an upper surface thereof.

30. (Amended) A shelving system comprising:

a substantially horizontal shelf having a forward area and a rearward area;

a rack disposed below the shelf and comprising a support assembly having a forward portion and a rearward portion and being configured to support a plurality of beverage containers;

a first pair of support legs having lower ends connected to the forward portion;

a second pair of support legs having lower ends connected to the rearward portion, the first pair of support legs having upper ends configured to hang from the forward area of the shelf, the second pair of support legs having upper ends configured to hang from the rearward area of the shelf;

a spacing defined between the upper ends of the of the second pair of support legs and the rearward portion of the support assembly sized so as to allow beverage containers to be inserted between the rear portion of the shelf and the rearward portion of the support assembly; and

Appl. No. : 09/847,759
Filed : May 2, 2001

a stop disposed at the forward portion of the support assembly, the stop including a panel configured to support a label;

wherein the first and second pairs of support legs are sized such that the support assembly is inclined relative to the shelf when the rack is hanging from the shelf.

31. The shelving system according to Claim 30, wherein the shelf is adjustably mounted within a display case.

32. The shelving system according to Claim 30, wherein the rack is narrower than the shelf.

33. The shelving system according to Claim 30, wherein a clearance is defined between a lower surface of the shelf and an upper surface of the support assembly when the rack is hanging from the shelf, the first and second pairs of support legs being sized such that a cylindrical beverage container having a diameter of about 2.5 inches or more cannot fit within the clearance.

34. The shelving system according to Claim 33, wherein the first and second pairs of support legs are sized such that a cylindrical beverage container having a diameter of about two inches can fit within the clearance.

35. The shelving system according to Claim 30 additionally comprising threaded fasteners connecting the upper ends of the first and second pairs of support legs to the shelf.

36. (Amended) A rack comprising:

a support assembly having a forward portion and a rearward portion and being configured to support a plurality of beverage containers;

a first pair of support legs having lower ends connected to the forward portion;

a second pair of support legs having lower ends connected to the rearward portion, each of the first and second pairs of support legs having upper ends configured to hang the rack from a shelf disposed above the rack; [and]

means for causing the forward portion to hang lower than the rearward portion when the rack is hanging, by the upper ends of the first and second pairs of the support legs, from a horizontal shelf disposed above the rack;

Appl. No. : 09/847,759
Filed : May 2, 2001

means defining a spacing between the upper ends of the of the second pair of support legs and the rearward portion of the support assembly sized so as to allow beverage containers to be inserted between the rear portion of the shelf and the rearward portion of the support assembly; and

a stop disposed at the forward portion of the support assembly, the stop including a panel configured to support a label.

37. The rack according to Claim 36, wherein a clearance is defined between the support assembly and a lower surface of the rack, additionally comprising means for preventing a cylindrical beverage container having a diameter of about 2.5 inches or more from fitting within the clearance.

38. (Canceled)

39. (Amended) The rack according to Claim 36 additionally comprising means for allowing a cylindrical beverage container to pass upwardly between the stop and a forward edge of the shelf when the rack is hanging from the shelf.

H:\DOCS\MAG\HANBEV002RAAM.DOC://gv1/rc2
052802